BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2003-1-E - ORDER NO. 2003-186

MARCH 28, 2003

IN RE: Annual Review of Base Rates for Fuel Costs of Carolina Power & Light Company.	))))	ORDER APPROVING BASE RATES FOR FUEL COSTS

On March 19, 2003, the Public Service Commission of South Carolina ("the Commission") held a public hearing on the issue of the recovery of the costs of fuel used in the sale of electricity by Carolina Power & Light Company ("CP&L" or "the Company") to provide service to its South Carolina retail electric customers. The procedure followed by the Commission is set forth in S.C. Code Ann. §58-27-865 (Supp. 2002). The review of this case is from January 2002 through December 2002.

At the public hearing, William F. Austin, Esquire, and Len S. Anthony, Esquire, represented CP&L; Elliott F. Elam, Jr., Esquire, represented the Intervenor, the Consumer Advocate for the State of South Carolina ("the Consumer Advocate"); and F. David Butler, General Counsel, and Jeffrey M. Nelson, Staff Counsel, represented the Commission Staff. The record before the Commission consists of the testimony of Ronnie M. Coats, Larry A. Washington, and Bruce P. Barkley on behalf of CP&L; the testimony of Jacqueline R. Cherry and A. R. Watts on behalf of the Commission Staff; and eight (8) hearing exhibits.

Based upon the evidence of the record, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The record of this proceeding indicates that for the period from January, 2002, through December, 2002, CP&L's total burned fuel costs for its electric operations amounted to $773,314,374. Hearing Exhibit No. 5, Audit Department Exhibit E.

2. Staff reviewed and compiled a percentage generation mix statistic sheet for CP&L's fossil, nuclear, and hydroelectric plants for January, 2002, through December, 2002. The fossil generation ranged from a high of 63% in July to a low of 48% in May. The nuclear generation ranged from a high of 51% in May to a low of 37% in July. The percentage of generation by hydro ranged from a high of 2% in November and December to a low of 0% in July, August, and September. Hearing Exhibit No. 8, Utilities Department Exhibit No. 3.

3. During the January, 2002, through December, 2002, period, coal suppliers delivered 11,193,703.46 tons of coal. The Commission Staff's audit of CP&L's actual fuel procurement activities demonstrated that the average monthly received cost of coal varied from $44.16 per ton in January to $51.12 per ton in October. Hearing Exhibit No. 5, Audit Exhibit A.

4. According to CP&L's witness Ronnie M. Coats, the performance of CP&L's nuclear units equals or exceeds that of comparable facilities as demonstrated thusly:

CP&L system actual capacity factors –

CP&L data for PWRs	
January, 2002-December, 2002	96.9%
CP&L data for BWRs	
January, 2002-December, 2002	96.4%

National average capacity factors -

NERC data for PWRs	
5 year 1996-2000	79%
NERC data for BWRs	
5 year 1996-2000	71%

5. Staff collected and reviewed certain generation statistics of major CP&L plants for the twelve months ending December 31, 2002. The nuclear fueled Harris plant and Robinson 2 plant had the lowest average fuel cost at 0.44 cents per kilowatt-hour. The highest amount of generation was 13,782,631 megawatt-hours produced at the coal fueled Roxboro Plant. Hearing Exhibit No. 8, Utilities Department Exhibit 4.

6. The Commission Staff conducted an extensive review and audit of CP&L's fuel purchasing practices and procedures for the subject period. The Staff's

accounting witness, Jacqueline R. Cherry, testified that CP&L's fuel costs, as adjusted by Staff, were supported by the Company's books and records. Testimony of Cherry; Hearing Exhibit No. 5, Audit Department Exhibits.

7. The Commission recognizes that the approval of the currently effective methodology for recognition of the Company's fuel costs requires the use of anticipated or projected costs of fuel. The Commission further recognizes the fact inherent in the utilization of a projected average fuel cost for the establishment of the fuel component in the Company's base rates that variations between the actual costs of fuel and projected costs of fuel would occur during the period and would likely exist at the conclusion of the period. S.C. Code Ann. §58-27-865 (Supp. 2002) establishes a procedure whereby the difference between the base rate fuel charges and the actual fuel costs would be accounted for by booking through deferred fuel expenses with a corresponding debit or credit.

8. The record of this proceeding indicates that the comparison of CP&L's fuel revenues and expenses for the review period ending March, 2003, including estimated fuel costs for the months of January, 2003, February, 2003, and March, 2003, and Staff and Company proposed adjustments produces an under-recovery of $6,799,938. Staff calculated an under-recovery of $7,393,266 for the period of January 2002, through December, 2002, to which Staff added the projected under-recovery of $1,492,363 for the month of January, 2003, the projected over-recovery of $1,056,961 for the month of February, 2003, and the projected over-recovery of $1,028,730 for the month of March, 2003 to arrive at a cumulative under-recovery of $6,799,938 as of

March, 2003. CP&L had no objections to Staff's adjustments to the cumulative fuel costs. Testimony of Cherry, p. 4; Hearing Exhibit No. 5, Audit Exhibit G.

9. For the base rate fuel component for the period ending March, 2004, Staff calculated a factor of 1.496 cents per kilowatt-hour. This factor is necessary for CP&L to recover virtually all of its anticipated and booked fuel expenses. In making its calculation, Staff utilized the projected sales and fuel costs for the twelve months ending March, 2004, included the under-recovered balance of $7,393,266 as of December, 2002. Testimony of Watts, pp. 2-3; Hearing Exhibit No. 8, Utilities Exhibit 10.

10. CP&L's projected average fuel expense for the period of April, 2003, through March, 2004, was 1.497 cents per kilowatt-hour. Testimony of Barkley, p. 3. Barkley projects the eligible under-recovery to be $6.9 million at March, 2003, which includes the final $2.2 million of $8.8 million authorized by Order No. 2000-299.[1] Testimony of Barkley, pp. 3-4.

11. Company witness Barkley proposed that the Commission continue the present fuel factor of 1.471 cents per kilowatt-hour for the next twelve-month period, and Barkley stated that this was because of the impreciseness of forecasting and in the interest of rate stability. Testimony of Barkley, p. 4.

12. Using the currently projected sales and fuel cost data and the adjusted and projected under-recovery of $7,393,266 through December, 2002, Staff projected the average fuel expense to be 1.496 cents per kilowatt-hour. The currently approved fuel

[1] By Commission Order No. 2000-299 (dated March 31, 2000) in Docket No. 2000-001-E, the Commission approved a four-year amortization of $8,896,659.

factor is 1.471 cents per kilowatt-hour. Applying the currently approved fuel factor would produce an estimated under-recovery for the next period of $1,785,344. Testimony of Watts from Hearing; Hearing Exhibit No. 8, Utilities Department Exhibit 10.

13. The nuclear units operated well during the period under review. All outages were reviewed by Staff (Hearing Exhibit No. 8, Utilities Department Exhibit 2A), and a determination was made by Staff as to the prudency of the outages. Staff determined that there were no Company actions which required CP&L's customers to be subject to incurring higher fuel costs. Therefore, no disallowances of any fuel costs during the review period were recommended. Staff also examined records and determined that CP&L's nuclear units had achieved an actual capacity factor of 96.7% for the review period. Testimony of Watts, p. 2.

14. According to CP&L witness Coats, the Company's nuclear generation system achieved a net capacity factor of 96.7%. Witness Coats also testified that excluding outage time associated with reasonable refueling outages raised the net capacity factor to approximately 103.2%. Testimony of Coats, p. 7.

15. On March 21, 2003, the Consumer Advocate and the Company entered into a Stipulation regarding purchased power costs. The Consumer Advocate and the Company disagree as to whether S.C. Code Ann. Section 58-27-865 allows an electric utility to include as a cost recoverable through the electric utility's fuel cost factor the electric utility's entire purchased power costs incurred during the period under review, provided such purchased power costs are less than the fuel costs the electric utility avoids

by making such purchase, or whether the utility may only recover the fuel costs or estimated fuel costs associated with such purchases. The two parties state in the Stipulation that this issue is currently on appeal and pending before the Circuit Court in Docket Nos. 02-CP-40-3600 and 02-CP-40-3984 (Richland County), and that it is anticipated that there will be a final decision on these matters prior to CP&L's 2004 fuel cost proceeding. Accordingly, the Consumer Advocate and CP&L agree that the Commission should not address the purchased power issue described above in the order in this case. In consideration for the Consumer Advocate not appealing our Order in this Docket regarding this issue, CP&L agrees that it will adjust its over-or under-recovery of fuel costs in its 2004 fuel cost proceeding to reflect the final court decision referred to above as if such decision had been issued and was applicable to CP&L's 2003 fuel cost proceeding in this Docket. The two parties further state that if this Order addresses the purchased power issue described above, the Stipulation shall be null and void and all parties retain any and all rights that they may have to appeal such Order. Finally, the two parties acknowledge and agree that the agreement is the compromise of doubtful and disputed claims and that it shall not be construed as an admission on the part of any party. The two parties further acknowledge and agree that the Stipulation does not establish any precedent with respect to the issues resolved therein, and that the parties will not hereafter in any proceeding contend that any such precedent was established. We would note that no objection to the Stipulation was filed by the Commission Staff. We believe that this Stipulation is reasonable, under the circumstances of this case.

CONCLUSIONS OF LAW

1. Pursuant to S.C. Code Ann., § 58-27-865(B)(Supp. 2002), each electrical utility must submit to the Commission its estimates of fuel costs for the next twelve (12) months. Following an investigation of these estimates and after a public hearing, the Commission directs each electrical utility "to place in effect in its base rate an amount designed to recover, during the succeeding twelve months, the fuel costs determined by the Commission to be appropriate for that period, adjusted for the over-recovery or under-recovery from the preceding twelve-month period." Id.

2. As stated by the Supreme Court in Hamm v. South Carolina Public Service Commission, 291 S.C. 178, 352 S.E.2d 476, 478 (1987), Section 58-27-865(F) requires the Commission "to evaluate the conduct of the utility in making the decisions which resulted in the higher fuel costs. If the utility has acted unreasonably, and higher fuel costs are incurred as a result, the utility should not be permitted to pass along the higher fuel costs to its customers." "[T]he rule does not require the utility to show that its conduct was free from human error; rather it must show it took reasonable steps to safeguard against error." Id. at 478, citing Virginia Electric and Power Co. v. The Division of Consumer Council, 220 Va. 930, 265 S.E.2d 697 (1980).

3. The Commission recognizes that Section 58-27-865(F) provides it with the authority to consider the electrical utility's reliability of service, its economical generation mix, the generating experience of comparable facilities, and its minimization of the total cost of providing service in determining to disallow the recovery of any fuel costs.

4. Further, S.C. Code Ann. § 58-27-865 (F) (Supp. 2002) provides that:

> [t]here shall be a rebuttable presumption that an electrical utility made every reasonable effort to minimize cost associated with the operation of its nuclear generation facility or system ... if the utility achieved a net capacity factor of ninety-two and one-half percent or higher during the period under review. The calculation of the net capacity factor shall exclude reasonable outage time associated with reasonable refueling, reasonable maintenance, reasonable repair, and reasonable equipment replacement outages; the reasonable reduced power generation experienced by nuclear units as they approach a refueling outage; the reasonable reduced power generation experienced by nuclear units associated with bringing a unit back to full power after an outage; Nuclear Regulatory Commission required testing outages unless due to the unreasonable acts of the utility; outages found by the [C]ommission not to be within the reasonable control of the utility; and acts of God. The calculation also shall exclude reasonable reduced power operations resulting from the demand for electricity being less than the full power output of the utility's nuclear generation system. If the net capacity factor is below ninety-two and one-half percent after reflecting the above specified outage time, then the utility shall have the burden of demonstrating the reasonableness of its nuclear operations during the period under review.

5. After considering the directives of §58-27-865 (B) which require the Commission to place in effect a base fuel cost which allows the Company to recover its fuel costs for the next twelve months adjusted for the over-recovery or under-recovery from the preceding twelve month period, the Commission determines that the appropriate base fuel factor for April, 2003, through March, 2004, will continue at 1.471 cents per kilowatt-hour.

6. The Stipulation between the Consumer Advocate and CP&L of March 21, 2003, related to the purchased fuel controversy between the two parties is hereby

approved. We believe that this is a reasonable agreement under the circumstances of this case. We will not address purchased power costs in this Order.

IT IS THEREFORE ORDERED THAT:

1. The base fuel factor for the period April, 2003, through March, 2004, is set at 1.471 cents per kilowatt-hour.

2. CP&L shall continue to file the monthly reports as previously required.

3. CP&L shall account monthly to the Commission for the differences between the recovery of fuel costs through base rates and the actual fuel costs experienced by booking the difference to unbilled revenues with a corresponding deferred debit or credit.

4. CP&L shall submit monthly reports to the Commission of fuel costs and scheduled and unscheduled outages of generating units with a capacity of 100 MW or greater.

5. The Staff is instructed to monitor the cumulative recovery account.

6. The March 21, 2003 Stipulation between the Consumer Advocate and CP&L is approved.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Mignon L. Clyburn, Chairman

ATTEST:

Gary E. Walsh, Executive Director

(SEAL)